

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA, ex rel,)
CHRISTINA LAVALLEY)
)
v.) NO. 3:12-0317
)
WANG VISION INSTITUTE, PLLC and)
MING XU WANG, M.D.)

O R D E R

On July 7, 2014, Judge Trauger referred this case to the undersigned to conduct a settlement conference upon the request of the parties. Docket Entry Nos. 59, 60, 61. Counsel have advised they are in agreement to set the settlement conference for Wednesday, October 1, 2014. A pre-settlement conference telephone conference is scheduled on Monday, September 29, 2014, at 4:00 p.m., C.S.T. and the deadline for submitting settlement conference statements is 3:00 p.m., C.S.T. on Wednesday, September 24, 2014. See below for full details. The parties shall comply with the directives in this order, and shall adhere to the following procedure for submitting their settlement conference statements.

- If she has not already done so, by no later than July 28, 2014, the relator shall forward a settlement demand to the defendants, and by no later than August 18, 2014, the defendants shall forward a settlement offer to the relator. The parties shall continue to engage in settlement discussions, as appropriate, thereafter.
- By no later than **3:00 p.m. on Wednesday, September 24, 2014**, relator and defendants shall deliver *under seal*, directly to Ms. Jeanne Cox, Courtroom Deputy to the undersigned, or Mr. Steve Wilson or Mr. Chris Call, law clerks to the

undersigned, ex parte, separate settlement conference statements which shall specify their respective settlement positions. The parties should hand deliver their statements, or, if the statement is no more than 20 pages long, they may fax them to 615-736-7070. If faxed, the Court does not need a hard copy. No party shall e-file, or e-mail their statement to the Court.

- Counsel for relator shall initiate a conference call with the Court and the other counsel in this case at ***4:00 p.m., C.S.T., Monday, September 29, 2014***, to address whether counsel for the United States shall participate or be available during the settlement conference and to discuss any other matters that the Court and/or the parties may have with regard to the conduct of the settlement conference. Each attorney who plans to participate in the conference call should provide his or her name and contact information to the attorney who is directed to initiate the call.
- Each settlement conference statement is to be furnished only to the Court and not to the other side. The statement(s) shall not be filed with the Clerk of Court, which includes electronic filing, or left in the night depository.
- Each statement shall contain a summary of the facts in the case and the parties' respective views of the law as to the theory of liability or defense.
- In their respective statements, counsel for relator and defendants shall make a candid assessment of the strengths and weaknesses of both sides of the case and shall give a good faith opinion (expressed as a percentage) of each client's probable success on the merits.
- Relator's statement shall contain an assessment from relator's viewpoint of her damages and the strengths and weaknesses of her position.
- Defendants' statement(s) shall contain an assessment of the relator's damages, defendants' exposure to those damages, and the respective strengths and weaknesses of defendants' position(s).
- Nothing in the way of a jury speech shall be contained in the settlement conference statements.

- Each statement shall contain an assessment of the economic cost of proceeding to trial.
- Each settlement conference statement also shall contain a statement of counsel's best judgment as to the amount which should be paid or received by his or her client in a settlement of the case based on counsel's written evaluation and opinion and after a full discussion of the opinion with the client.
- **Each statement shall include the maximum amount the defendants are willing to pay and the minimum amount the relator is willing to accept,¹ and any other terms on which the client insists.**
- Each statement shall recount, with specificity, the settlement discussions between the parties to date.
- The defendants' statement(s) shall include the name(s) and position(s) of each representative of defendant Wang Vision Institute, PLLC who will be present at the settlement conference and defendants' counsel's representation that such representative(s) has full settlement authority as described below.
- A settlement conference in this action shall be held on ***Wednesday, October 1, 2014, at 9:00 a.m.***² in Courtroom No. 764, U.S. Courthouse, 801 Broadway, Nashville.
- The relator, Dr. Wang, and a representative of defendant the Wang Vision Institute, PLLC shall be present with **FULL SETTLEMENT AUTHORITY**. The parties are advised that **unless otherwise specifically ordered**, failure to be present with **full** settlement authority could result in imposition of sanctions pursuant to Rule 16(f) of the Federal Rules of Civil Procedure. For the purposes of this case, full settlement authority of the defendants is deemed to be up to the last demand made by the relator. Full settlement authority also means that the relator, Dr. Wang, and

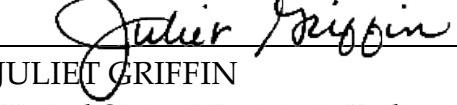
¹ Essentially, the parties shall provide their “bottom line.” However, the parties should be prepared to negotiate further from these figures during the course of the settlement conference.

² The parties are advised that they should not schedule anything else on this date and to be prepared to spend the entire day in this settlement conference, if necessary.

the representative of the defendant Wang Vision Institute, PLLC present at the settlement conference do not need authority from any other individual to enter into any settlement agreement. The relator, Dr. Wang, and the representative of the defendant Wang Vision Institute, PLLC present at the settlement conference shall have total independent authority to enter into any settlement agreement.³

- Counsel for each party shall be prepared to present a **brief** opening statement (5 to 10 minutes) in the courtroom at the beginning of the settlement conference.

It is so ORDERED.



JULIET GRIFFIN
United States Magistrate Judge

³ The Court acknowledges that the United States Attorney General must approve any dismissal of this case in accord with 31 U.S.C. § 373o(b)(1).